

**REMARKS**

Reconsideration is requested.

Claims 1-12 have been canceled, without prejudice. Claims 13-24 are pending.

Upon entry of the above amendments, claims 13-36 will be pending.

The basis for the amendment to claim 13 may be found, for example, on page 1, third paragraph, of the specification. No new matter has been added.

Support for the new claims 26-28 may be found, for example, on pages 1-3, for example, of the specification. New claims 29-35 are similar to the pending dependent claims in their additional details. Claims 25 and 36 which were newly added above are supported, for example, by the specification on page 1 in the second paragraph. No new matter has been added.

The Section 102 rejection of claims 15 and 24 over Mougin (U.S. Patent No. 5,851,517), is traversed. Similarly, the Section 102 rejection of claims 13-24 over Santora (U.S. Patent No. 6,524,594), is traversed. Reconsideration and withdrawal of the art rejections are requested in view of the following distinguishing comments.

According to the invention, a method of using a fatty substance free of carbohydrate units having an interfacial tension of between 6 and 27 mN/m is intended for patients either presenting with a disruption of the ecological balance among the resident flora, such as following colonization of the skin by pathogenic exogenous microorganisms or following abnormal proliferation of an endogenous strain (see, page 1 of the specification). These microorganisms may be *Pseudomonas aeruginosa* responsible for small spots, *Candida albicans* responsible for inflammation of lips, *Propionibacterium acnes* responsible for acne or *Pytirosporum ovale* responsible for

dandruff. The claimed invention also provides methods of treating conditions caused by microorganisms, without requiring the presence of antibiotic, bactericidal, or fungicidal agents. The conditions to be treated are well known.

The Examiner is understood to believe that the methods of the claimed invention are anticipated by either Mougin or Santora et al.

The applicants submit that the composition of Mougin would not be expected by one of ordinary skill in the art to be applied to the surface of the skin and/or mucous membranes to treat conditions related to microorganisms. The facial gel of Mougin is not believed to contain an antibiotic, bactericidal or fungicidal agent, which one of ordinary skill would likely believe to be required to treat a condition related to the presence of microorganisms. The claimed method is not believed to necessarily flow from the facial gel of Mougin which is believed to be the basis of the Examiner's rejection. Withdrawal of the Section 102 rejection of claims 13-24 over Mougin is requested.

As for the Section 102 rejection of claims 13-24 over Santora, the applicants understand the use disclosed in this patent to be impart a moisturizing residue to skin after the composition is rinsed. This patent does not disclose the use of a fatty substance free of carbohydrate units having an interfacial tension of between 6 and 27 mN/m is a composition intended for a specific population, as described above and recited in the claims. Withdrawal of the Section 102 rejection of claims 13-24 over Santora is requested.

The Section 112, first paragraph, rejection of claims 13-24 is traversed.

Reconsideration and withdrawal of the rejection are requested in view of the following comments as well as the attached.

As admitted by the Examiner on page 3 of the Office Action dated November 6, 2003, the "relative skill of those in the art is high."

Moreover, the compounds which are generally accepted by those of ordinary skill in the art as being antibiotics, antimicrobial agents, cosmetic biocides, preservatives and/or antifungal agents, are well known by those of ordinary skill in the art. See, the attached extracts from the CTFA Handbook or printouts from the website biam2.org.

The Examiner is also urged to appreciate that Example 1 of the present application, for example, provides examples of 11 fatty substances which have been tested and shown to exhibit anti-adhesive properties by a measure of the reduction of log/control. Moreover, in Example 2 of the application, the applicants have exemplified the important of choosing fatty substances having specific interfacial tension of between 6 and 27 mN/m to provide the unexpected advantage of the compositions of the claims.

As for the Examiner's assertion that the specification does not demonstrate the disclosed composition which does not require the presence of an antibiotic, bactericidal or fungicidal agent, the applicants submit that such an example should not be required to support enablement as one of ordinary skill in the art will be able to make and use the claimed invention from the general disclosure and advanced level skill in the art without undue experimentation.

While not believed to be required, the attached Declaration of the inventor, Lerebour demonstrates composition which can be used according to the claims wherein

antibiotic, bactericidal or fungicidal agents are not included. Moreover, comparative examples of compositions outside of the claims are demonstrated as not providing the desired effect relied upon in the claimed invention.

For completeness, the applicants note that the antioxidant and perfume referred to by the Examiner previously are not necessary also antimicrobial agents as they are described in the specification in general way. There is no reason for one of ordinary skill in the art to consider that in the disclosed example the antioxidant is a flavonoid and the perfume has an antimicrobial activity.

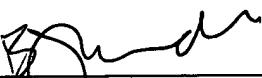
The applicants again submit that the claims are supported by enabling disclosure and withdrawal of the Section 112, first paragraph, rejection is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
B. J. Sadoff  
Reg. No. 36,663

BJS:pp  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100